IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14092 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KARTIKBHAI ARVINDBHAI SHAH - Petitioner(s)
Versus
DY. COLLECTOR & 2 - Respondent(s)

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Appearance :

MR RAJESH K SHAH for Petitioner(s) : 1,MR ASHVIN J POPAT for Petitioner(s) : 1,
MS.MD MEHTA AGP for Respondent(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA
Date : 06/08/2007

ORAL JUDGMENT

1. RULE. Learned A.G.P. Ms.M.D. Mehta waives service for the respondents.

2. Invoking Article 226 of the Constitution, the petitioner has called into question the Communication dated 08.04.2006 of the Deputy

Collector, Stamps Duty Valuation Organization, Rajkot whereby, the petitioner was informed that the Chief Controlling Revenue Authority had not accepted the application of the petitioner on the ground of delay. It was submitted by learned counsel Mr.Shah and conceded on behalf of the respondents that the order dated 30.04.2001, made under the provisions of Section 32-A of the Bombay Stamp Act, 1958 (for short “the Act”) was sought to be referred under the provisions of Section 32-B of the Act after depositing on or after 26.07.2001, 25% of the deficit stamp duty and the so-called memo of appeal was filed on 25.09.2001, within the period of limitation after knowledge of the order; and yet the application was rejected by the impugned order without application of mind and without affording to the petitioner an opportunity of being heard.

3. Therefore, the petition is partly allowed with the direction that the application of and the reference, if any, made at the instance of

the petitioner shall be considered by respondent No.2 in accordance with law and decided after affording to the petitioner an opportunity of being heard. In view of long lapse of time, the proceedings before respondent No.2 shall be conducted and concluded as expeditiously as practicable. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.WAGHELA, J.)

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